

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Donald Wilson, #87332-020,) Civil Action No.: 8:09-2582-MBS-BHH
)
 Petitioner,)
)
 vs.)
)
Mildred Rivera, Warden FCI Estill,)
)
)
 Respondent.)

O R D E R

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2241. On December 10, 2009, the respondent filed a motion for summary judgment. By order of this court filed December 11, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner has failed to respond to the motion for summary judgment, it appears to the court that he wishes to abandon this action. Therefore,

IT IS ORDERED that the petitioner shall have through February 19, 2010, to file his response to the motion for summary judgment. The petitioner is advised that if he fails to respond, this action will be subject to dismissal for failure to prosecute pursuant to F. R. Civ. P. 41(b), and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989). The dismissal will be considered an adjudication on the merits, i.e., *with*

prejudice.

IT IS SO ORDERED.

s/Bruce Howe Hendricks
United States Magistrate Judge

January 25, 2010
Greenville, South Carolina